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LAO  
OLC #78-2110/1

28 August 1978

MEMORANDUM FOR: Legislative Counsel  
FROM : Special Assistant to the DDCI  
SUBJECT : GAO Compartmented Clearances

1. The Director and Deputy Director met with Mr. Elmer Staats to discuss GAO access to compartmented information. The talking points presented by Mr. Staats are attached.

2. In addition to these Discussion Notes, Mr. Staats made several statements regarding clearances. He would agree to:

- a) limited duration clearances;
- b) clearances for specific projects;
- c) clearance for the product, e.g. photography from specific systems;

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e) accept TK clearance

3. Mr. Carlucci would like you to review the Discussion Notes and other issues to determine if a modification of our present policy is possible.

cc: Deputy Director for Resource Management  
Inspector General  
Director of Security

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August 16, 1978

## GAO ACCESS TO INTELLIGENCE INFORMATION

### DISCUSSION NOTES

1. Informally, the Department of Defense advised the General Accounting Office on March 14, 1978, that the Director of Central Intelligence, acting pursuant to Executive Order 12036, January 26, 1978, directed that intelligence information requiring special intelligence clearances could no longer be made available to the GAO. Hence, documents available in the past could not be seen by GAO representatives, including documents used widely in the Department of Defense.
2. GAO has clear legal authority and responsibility to audit and evaluate DOD programs, some of which are justified or administered on the basis of information contained in the classified documents in question. GAO does not seek access to this information for the purpose of evaluating its accuracy or quality. It is needed for the purpose of evaluating DOD programs sometimes initiated and carried out as a result of intelligence information.
3. The effect of the action of the Director of Central Intelligence, if sustained, is to make it difficult if not impossible for the GAO to carry out responsibilities assigned to it under the Budget and Accounting Act of 1921 and subsequent statutes, including the Congressional Budget and Impoundment Act of 1974. These statutes give GAO access to records of the executive branch except records of unvouchered expenditures certified as necessary by the head of the agency.
4. For approximately 10 years GAO has prepared in-depth analyses of weapons systems, as agreed upon between the GAO and the House and Senate Armed Services Committees and the House and Senate Appropriations Committees. These reports, usually classified, are used by the committees extensively in considering the authorization and funding requests of the DOD. Intelligence information which is involved is usually an integral part of the files reviewed and relevant to discussions held between GAO representatives and representatives of the DOD. Without this information, reports can be incomplete, erroneous, and possibly misleading to the committees of Congress utilizing such reports. The current list of such projects, expected to lead to reports to Congress in early 1979, are the following:

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In addition, committee requests are made from time to time for GAO studies which cannot be anticipated in advance.

5. Any itemization of specific material involved which is protected by compartmental security clearances would tend to become a security violation in itself so we cannot give specific examples. We are concerned because we are not being given access to data which could seriously impact on either the stated needs for new equipment or upon the efficiency of the equipment if it were to be deployed. Specifically, without these special intelligence clearances:

- we are not permitted to review the specific studies and evaluations which were conducted to establish the quantity and quality needs of systems proposed for development,
- we cannot question the program manager or DOD claims that the best available information is being used to formulate the design of the system in development,
- we cannot review the evidence being used to support any arguments about the probable effectiveness of the system against future threats,
- we cannot determine if the intelligence community is being responsive to the needs of the R&D community.

6. GAO will require at any given time only a very limited number of individuals requiring access to special intelligence clearances and believes, therefore, that the concern of the Director of Central Intelligence with respect to possible leakage of this information is not warranted. Only seven individuals concerned with the review of weapons systems in the past 4 years have had access to such information. In two of these cases, the clearances were limited to a briefing to verify data omitted from a previous DOD briefing.

There have been other limited occasions in the past where special clearances have been required and there may be similar needs in the future.

7. GAO has strictly adhered to DOD security arrangements in the past and will continue to do so in the future. GAO is agreeable to discussion of any further arrangements with the Department of Defense and the DCI for safeguarding sensitive intelligence information.